

(ii) The worker's hourly rate or piece rate of pay;

(iii) The hours of employment which have been offered to the worker (broken out by offers in accordance with, and over and above, the guarantee);

(iv) The hours actually worked by the worker;

(v) An itemization of all deductions made from the worker's wages; and

(vi) If piece rates are used, the units produced daily;

(9)(i) If the worker will be paid by the hour, the employer will pay the worker at least the adverse effect rate; or

(ii)(A) If the worker will be paid on a piece rate basis, and the piece rate does not result at the end of the pay period in average hourly earnings during the pay period at least equal to the amount the worker would have earned had the worker been paid at the adverse effect rate, the worker's pay will be supplemented at that time so that the worker's earnings are at least as much as the worker would have earned during the pay period if the worker had been paid at the adverse effect rate.

(B) If the employer who pays on a piece rate basis requires one or more minimum productivity standards of workers as a condition of job retention,

(1) Such standards shall be no more than those applied by the employer in 1977, unless the OFLC Administrator approves a higher minimum; or

(2) If the employer first applied for temporary labor certification after 1977, such standards shall be no more than those normally required (at the time of that first application) by other employers for the activity in the area of intended employment, unless the OFLC Administrator approves a higher minimum.

(10) The frequency with which the worker will be paid (in accordance with the prevailing practice in the area of intended employment, or at least bi-weekly whichever is more frequent);

(11) If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the employer will not be responsible for providing or paying for the subsequent transportation and subsistence expenses of any worker for whom the employer would have otherwise been required to pay such expenses

under paragraph (b)(5)(ii) of this section;

(12) If, before the expiration date specified in the work contract, the services of the worker are no longer required for reasons beyond the control of the employer due to fire or other Act of God which makes the fulfillment of the contract impossible, and the OFLC Administrator so certifies, the employer may terminate the work contract. In such cases the employer will make efforts to transfer the worker to other comparable employment acceptable to the worker. If such transfer is not effected, the worker

(i) Will be returned to the place from which the worker, without intervening employment, came to work for the employer at the employer's expense; and

(ii) Will be reimbursed the full amount of any deductions made from the worker's pay by the employer for transportation and subsistence expenses to the place of employment borne directly or indirectly by the employer;

(13) The employer will make those deductions from the worker's paycheck which are required by law. The job offer shall specify all deductions, not required by law, which the employer will make from the worker's paycheck. All deductions shall be reasonable. The employer may deduct the cost of the worker's transportation and daily subsistence expenses to the place of employment which were borne directly by the employer; in such cases, however, the job offer shall state that the worker will be reimbursed the full amount of such deductions upon the worker's completion of 50 percent of the worker's contract period; and

(14) The employer will provide the worker a copy of the work contract between the employer and the worker. The work contract shall contain all of the provisions required by paragraphs (a) and (b) of this section.

§ 655.203 Assurances.

As part of the temporary labor certification application, the employer shall include assurances, signed by the employer, that:

(a) The job opportunity is not:

(1) Vacant because the former occupant is on strike or being locked out in the course of a labor dispute; or

(2) At issue in a labor dispute involving a work stoppage;

(b) During the period for which the temporary labor certification is granted, the employer will comply with applicable Federal, State and local employment-related laws, including employment related health and safety laws;

(c) The job opportunity is open to all qualified U.S. workers without regard to race, color, national origin, sex, or religion, and is open to U.S. workers with handicaps who are qualified to perform the work. No U.S. worker will be rejected for employment for other than a lawful job related reason;

(d) The employer will cooperate with the employment service system in the active recruitment of U.S. workers until the foreign workers have departed for the employer's place of employment by;

(1) Allowing the employment service system to prepare local, intrastate and interstate job orders using the information supplied on the employer's job offer;

(2) Placing at least two advertisements for the job opportunities in local newspapers of general circulation.

(i) Each such advertisement shall describe the nature and anticipated duration of the job opportunity; offer at least the adverse effect wage rate; give the $\frac{3}{4}$ guarantee; state that work tools, supplies and equipment will be provided by the employer; state that housing will also be provided, and that transportation and subsistence expenses to the worksite will be provided or paid for by the employer;

(ii) Each advertisement shall direct interested workers to apply for the job opportunity at the appropriate office of the State Workforce Agency in their area;

(3) Cooperating with the employment service system in contacting farm labor contractors, migrant workers and other potential workers in other areas of the State and/or Nation by letter and/or telephone;

(4) Cooperating with the employment service system in contacting schools, business and labor organizations, fra-

ternal and veterans organizations, and non-profit organizations and public agencies such as sponsors of programs under the Comprehensive Employment and Training Act, throughout the area of intended employment, in order to enlist them in helping to find U.S. workers; and

(5) If the employer, or an association of employers of which the employer is a member, intends to negotiate and/or contract with the Government of a foreign nation or any foreign association, corporation or organization in order to secure foreign workers, making the same kind and degree of efforts to secure U.S. workers;

(e) From the time the foreign workers depart for the employer's place of employment, the employer will provide employment to any qualified U.S. worker who applies to the employer until fifty percent of the period of the work contract, under which the foreign worker who is in the job was hired, has elapsed. In addition, the employer will offer to provide housing, and the other benefits, wages, and working conditions required by § 655.202, to any such U.S. worker; and

(f) Performing the other specific recruitment activities specified in the notice from the OFLC Administrator required by § 655.205(a).

§ 655.204 Determinations based on temporary labor certification applications.

(a) Within two working days after the temporary labor certification application has been filed with it, the SWA shall mail the duplicate application directly to the appropriate OFLC Administrator.

(b) The SWA, using the job offer portion of its copy of the temporary labor certification application, shall promptly prepare a local job order and shall begin to recruit U.S. workers in the area of intended employment.

(c) The OFLC Administrator, upon receipt of the duplicate temporary labor certification application, shall promptly review the application to determine whether it meets the requirements of §§ 655.201-655.203 in order to determine whether the employer's application is (1) timely, and (2) contains offers of wages, benefits, and working